

Decision No. 45998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WESTERN YOLO WATER USERS ASSOCIATION,)

Complainant,)

vs.)

Case No. 5281

CLEAR LAKE WATER COMPANY,)

Defendant.)

Martin McDonough, for Complainant.

Chalmers, Cowing and Sans, by Ralph H. Cowing,
for Defendant.

Ed. F. Catey, for Commission's Staff.

O P I N I O N

Western Yolo Water Users' Association is an unincorporated organization of rice growers operating in the service area of Clear Lake Water Company. This company obtains its main water supply from Clear Lake in Lake County and provides agricultural irrigation service for orchards, general crops and rice in an area comprising about 95,000 acres of irrigable lands in Yolo County.

The Association in its complaint alleges that this Commission in its Decision No. 36698, issued November 9, 1943, in Case No. 4684 (45 CRC 13) ordered said company to file and put into effect Rule No. 3a, which rule among other things established a prior right to water service for those lands entitled to water from the system of Clear Lake Water Company as it existed on December 31, 1943, and which apply for water on or before March 15th of any year; and that this rule has been so filed and thereafter observed and continued in effect by said company. It is further

alleged that subsequent to the establishment of the above rule, the company relocated a portion of Hungry Hollow Ditch, in the vicinity of Capay, which now can provide irrigation service to some 14 parcels of land, totalling approximately 1,500 acres, except for the restrictions imposed by Rule No. 3a. The Association asks that these lands be exempted from said restrictions and be given full and regular service rights upon the grounds that the small acreage involved and the increased water supply available to the company will insure that the other lands entitled to full service rights will not thereby be substantially affected.

By way of answer Clear Lake Water Company, on April 9, 1951, filed with this Commission a letter over the signature of Walter Ward, Vice President and Manager, in which it conceded that the statements set forth in the complaint were substantially correct and stated that the company had no objections to the Commission granting complainant's request.

From the record it appears that during the year 1942, Clear Lake Water Company had under consideration the extension of a canal, called the Oak Creek Project, to supply some 9,000 acres of lands devoted to the dry farming of grain and pasture crops located outside the area heretofore served by the utility and mainly in the vicinity of the town of Zamora. To meet the insistent requests of these dry farmers for irrigation water, the company agreed to extend its canal system approximately 10 miles and commenced construction of the relocation at a higher elevation of a portion of Hungry Hollow Ditch from a point near Capay Dam, intending to cross through Oak Creek pass and thence on to the Zamora District.

Western Yolo Water Users Association, the same organization now complainant in the instant proceeding, on May 26, 1943, filed a formal complaint with the Commission against the Clear Lake Water

Company, asking that the company be restrained from delivering water for irrigation purposes to the Zamora District, contending that the utility had an insufficient water supply to meet the normal and ordinary irrigation demands of the lands already within its service area; and that to absorb so large an acreage of new lands would injuriously withdraw the supply wholly, or in part, from present regular water users entitled to adequate service.

The original Decision No. 36698, issued the 9th day of November, 1943, in Case No. 4684, referred to above, ordered Clear Lake Water Company to add the following additional rule to its existing Rules and Regulations, which order was complied with by said company and is currently in effect:

Rule No. 3a

Notwithstanding anything contained in these rules and regulations, those lands entitled to be served with water from the system of the Clear Lake Water Company as it existed on December 31, 1943, and which apply for water on or before March 15 of any year, shall have a prior right to be served with water by the Company to the full extent of their requirements before any other lands shall be served.

This decision resulted in the abandonment of the uncompleted Zamora project. Further construction was discontinued, leaving a high line canal located above the old Hungry Hollow Ditch under which lie the said 1,500 acres of lands which complainant herein asks to be given full service rights. These lands have received irrigation service from the new high line canal for several years last past and in fact, ever since the ditch was constructed, and at present still are receiving water. There has been no objection to deliveries to these lands.

Walter Ward, Vice President and General Manager of the company, testified that the restrictions imposed by Rule No. 3a should be removed not only from the lands under the high line canal but from all other lands throughout the system. Mr. Ward testified that

since the establishment of said rule, system improvements have enabled the company to increase its dependable water supply by 50 per cent. Applications have been received this year from rice growers for 10,250 acres, the same acreage as the year 1943, whereas the general crop area has suffered a reduction of 6,000 acres since 1943. The system now has available for use this year excess water to the extent of probably 60,000 acre-feet which cannot be sold. The company will be forced to carry over this water in Clear Lake or waste it, with its attendant serious loss in revenues.

By reason of the above changed and improved conditions of water supply, Mr. Ward, on behalf of the defendant company, stated that there no longer exists any necessity to continue in effect Rule No. 3a; that it also works an unnecessary and unjustifiable hardship on other landowners under the canal system as well as the utility, and therefore he asks that the rule be cancelled and annulled throughout the entire service area.

From the facts set forth above it is clear this rule is no longer necessary and proper and should be cancelled. Originally promulgated to prevent the completion of the Oak Creek Project to supply water to the Zamora District, this design long since has been accomplished through abandonment of that development. Improved conditions of increased dependable water supply and reduced transmission losses have very substantially augmented system performance since promulgation of this rule in 1943. It would be manifestly discriminatory to repeal the rule only for a certain group of landowners when others entitled thereto may desire similar benefits. Abolition of the rule furthermore may counteract to some extent the loss of the 6,000 acres of general crop lands by bringing in some new consumers who, under existing restrictions, will not apply for water because they are limited to secondary service rights only.

Elimination of the restrictions imposed by this rule should permit the beneficial use of a considerable amount of the available water supply otherwise going to waste and at the same time provide the utility with much needed additional revenue.

O R D E R

Complaint as above entitled having been filed with this Commission, a public hearing having been held thereon, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that Rule No. 3a of the Rules and Regulations of Clear Lake Water Company be and it is cancelled and annulled as of the effective date of this order.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the effective date of this order Clear Lake Water Company shall publish once in a newspaper of general circulation in the City of Woodland, a notice to the effect that said Rule No. 3a has been ordered cancelled and annulled by this Commission as of the effective date of the order herein.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 31st day of July, 1951.

[Signature]
Justice J. Calver
Harold P. Kula
[Signature]
[Signature]
Commissioners.